

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

DONN MCPHERSON,	)	ED98940
	)	
Movant,	)	Appeal from the Circuit Court
	)	St. Louis County
v.	)	12SL-CC00462
	)	
STATE OF MISSOURI,	)	Honorable David Lee Vincent III
	)	
Respondent.	)	Filed: August 20, 2013

Donn McPherson (Movant) appeals the motion court's judgment denying on the merits without an evidentiary hearing his untimely filed *pro se* motion for post-conviction relief under Rule 24.035.<sup>1</sup>

VACATED AND REMANDED.

Division Five Holds: The motion court erred in deciding Movant's untimely-filed motion on the merits. When a *pro se* motion for post-conviction relief is untimely filed, the motion court has no authority to address the merits, and the motion must be dismissed.

Opinion by: Gary M. Gaertner, Jr., J.

Robert M. Clayton III, C.J., and Michael K. Mullen, S.J., concur.

Attorney for Appellant: Jessica M. Hathaway

Attorneys for Respondent: Chris Koster and Robert J. (Jeff) Bartholomew

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.  
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND  
SHOULD NOT BE QUOTED OR CITED.**

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<sup>1</sup> All rule references are to Mo. R. Crim. P. 2012, unless otherwise indicated.